

PART 5312--CONTRACT DELIVERY OR PERFORMANCE

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PART 5312--CONTRACT DELIVERY OR PERFORMANCE

SUBPART 5312.1--DELIVERY OR PERFORMANCE SCHEDULES**5312.103 Supplies or services.**

(a)(3)(A) When contract delivery schedules are based on date of receipt of the contract by the contractor, the contracting officer generally should use certified mail to determine the date of receipt. As an alternative, business reply cards may be used if advantageous to the government. Business reply cards shall, as a minimum, provide the following information—

- (i) Contractual document number;
- (ii) Dates mailed and received;
- (iii) Name of contractor; and
- (iv) Signature of authorized representative.

(B) The contracting officer shall notify the administering office, if appropriate, when the date of receipt has been established. The contracting officer shall maintain completed receipts/cards in the contract file.

SUBPART 5312.2--LIQUIDATED DAMAGES**5312.202 Policy.**

(a) The contracting officer shall obtain legal advice and review before placing liquidated damages clauses in solicitations and contracts for other than construction.

(b) The contracting officer shall document the contract file with an explanation of calculation rate of liquidated damages used in the solicitation or contract. The contracting officer shall obtain recommendations from the customer to estimate the probable losses attributable to delays in acquiring delivery or performance. If the contracting officer's determination of an appropriate liquidated damages amount is significantly different from the recommended amount, the contracting officer shall include an explanation of the differences in the contract file.

(d) Any contractor request to the contracting officer for total or partial remission of liquidated damages previously assessed shall be submitted in writing to the contracting officer. If the contracting officer determines that the request is without merit, the contracting officer shall deny the request. If the contracting officer determines the request has merit, the contracting officer shall forward recommenda-

tions for total or partial remissions through command contracting channels to SAF/AQCP.

5312.203 Procedures.

(b) The contracting officer shall obtain the estimated cost of superintendence and inspection from the local civil engineering personnel or the applicable architect-engineer contractor for Title II inspection services. The contracting officer shall also consider the estimated cost of additional contract administration required if delivery or performance is delayed. This cost is based on the average hourly wage rate of local contract administration personnel, plus associated overhead costs, for additional hours required to administer the contract. Average hourly rates and associated overhead can be obtained from the local comptroller staff. Additional examples of specific losses that may be appropriate for consideration include—

- (1) Extraordinary operation and maintenance costs;
- (2) Costs associated with storage of government-furnished equipment;
- (3) Estimated loss of net revenue (e.g., open messes);
- (4) Costs resulting from delays to follow-on government contracts; and
- (5) Deployment costs.

SUBPART 5312.3--PRIORITIES AND ALLOCATIONS**5312.302 General.**

(a) The Title I Program Office, WL/MTD, located at Wright-Patterson AFB, OH, plans for and allocates materials under emergency and shortage conditions affecting all Air Force development, production, and readiness programs. Additionally, WL/MT studies demand for, and availability of, strategic, critical, foreign dependent, and constrained supply materials. Abbreviated Summary Bills of Materials (BOMs), are essential to accomplishing these responsibilities in accordance with DODI 4005.1M. Obtain BOMs via contract schedule (Contract Data Requirements Lists, DD Form 1423) as follows:

- (1) BOMs shall be acquired on all major aircraft, engine, missile, avionics, armament and munitions programs. BOMs shall be acquired initially during full scale development (FSD), prepared within 180 days after design

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approval. BOM updates shall be acquired during production. For programs missed during FSD, initial BOMs shall be delivered within 90 days after production contract award. Contractors shall be required, by implementing data item descriptions and military specifications/standards, to update delivered BOMs every 180 days when any BOM line item varies by 10 percent or more.

(2) Updates to BOMs shall be acquired on all major modifications to aircraft, engine, missile, avionics systems, armament, and munitions. This also applies when complete end items (e.g., engines) are acquired as spares. BOM requirements also apply to foreign military sales contracts and to acquisitions by other DOD activities under DFARS Subpart 208.70.

(3) HCAs may waive the requirement in paragraph (2) above. Waiver request must establish that the subject program involves insignificant quantities of steel, aluminum, copper (including brass), nickel, and National Defense Stockpile materials and would not require allocation of the aforementioned material under emergency or shortage conditions.

(4) Data Item Descriptions UDI-P-21371, UDI-P-21372, and MIL-STD-295A apply for items produced and manufactured for DoD. The requirements of the DIDs and MIL-STD apply to bills of materials regardless of their type.

(5) Contractors shall be required to furnish one copy of BOMs to: WL/MTD (Title I Program Office), Wright - Patterson AFB OH 45433-6533. Title I personnel will review and approve BOMs, and will submit approvals or disapprovals through the cognizant procuring contracting officer (PCO).

5312.303 Procedures.

(a) Contracting officers shall apply DO and DX ratings to contracts in accordance with AFR 70-24 and AFM 78-4, and ensure that contractors and subcontractors use priorities assistance procedures outlined in AFM 78-4. The authority to approve DD Form 691, "Approval of Rating for Production Equipment" is delegated to the Administrative Contracting Officer (ACO) if that individual is an Air Force employee. If the ACO is other than Air Force, the PCO retains the authority to approve these requests. Guidelines for approval are contained in the Priorities and Allocation Manual (AFM 78-4).

(b) WL/MTD shall--

(1) Make allotments of controlled materials to Air Force contractors with ratable contracts and delivery orders

within the allotment jurisdiction of DoD; and

(2) Reschedule deliveries of materials which are required in support of the Aircraft (A1) program and the Air Force portion of the Missiles (A2) program. Such authority is limited to rescheduling deliveries on rated order that are requested or concurred in by the department or associated agency under whose authority they were issued. Rescheduling of delivery may be directed only if it requires no change in the production schedule of the person making the delivery. The procedures in AFM 78-4 apply.

(c)(l) Assignment of claimant program code shall be made in accordance with AFM 78-4. The claimant program code associated with the DD Form 350 (see DFARS 253.204-70(b)(12)(ii) is different and cannot be used in association with priority ratings.